

रजिस्टर्ड नं० पी० ६७



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, मंगलवार, १३ अगस्त, १९६८/२२ श्रावण, १८९०

GOVERNMENT OF HIMACHAL PRADESH

VIDHAN SABHA SECRETARIAT

NOTIFICATIONS

Simla-4, the 3rd July, 1968

No. 1-36/68-VS.—In pursuance of Rule 135 of the Rules of Procedure and Conduct of Business for the Himachal Pradesh Legislative Assembly,

1964 "The Himachal Pradesh Weights and Measures (Enforcement) Bill, 1968 (Bill No. 22 of 1968)" as introduced in the Legislative Assembly on the 3rd July, 1968 is hereby published in the Himachal Pradesh Government Gazette.

THE HIMACHAL PRADESH WEIGHTS AND MEASURES (ENFORCEMENT) BILL, 1968

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to provide for the enforcement of standard weights and measures and for matters connected therewith.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Nineteenth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Himachal Pradesh Weights and Measures (Enforcement) Act, 1968.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act, or for different areas or for different classes of undertakings or for different classes of goods.

2. In this Act, unless the context otherwise requires,—

(a) “commercial weight or measure” means a weight or measure purporting to be a standard weight or measure used in any transactions for trade or commerce;

(b) “Controller” means the Controller of Weights and Measures appointed under section 16;

(c) “Government” means the Government of Himachal Pradesh;

(d) “Inspector” means an Inspector of Weights and Measures appointed under section 16;

(e) “measuring instrument” means any measuring instrument other than a weighing instrument and includes any instrument used for determining the length, area, volume or capacity, quantity, temperature or density of any article;

(f) “mint” means mint of the Central Government;

(g) “Official Gazette” means Rajpatra, Himachal Pradesh;

(h) “prescribed” means prescribed by rules made under this Act;

(i) “reference standards” means the sets of standard weights and measures supplied to the Government by the Central Government in pursuance of sub-section (2) of section 15 of the Standards of Weights and Measures Act, 1956;

(j) “standard weight or measure” means any unit of mass or measure referred to in sub-section (1) of section 13 of the Standards of Weights and Measures Act, 1956, and includes any other weight or measure permitted to be used by the Central Government in pursuance of sub-section (1) of section 14 of the said Act;

(k) “sealed package or container” means a closed packet, bottle, casket, tin, barrel, case, receptacle, bag, sack, wrapper or other thing in which any article is placed or packed and which is intended to be sold with its contents, without any weight or measurement of such contents at the time of sale;

Short title,
extent and
commence-
ment.

Definitions

Central Act
89 of 1956.

Central Act
89 of 1956.

- (l) "stamping" means marking in such manner as to be, so far as practicable, indelible and includes casting, engraving, etching and branding;
- (m) "use in transaction for trade or commerce" means use for the purpose of determining or declaring the quantity of anything in terms of measurement of length, area, volume, capacity or weight in or in connection with,—
 - (i) any contract, whether by way of sale, purchase, exchange or otherwise; or
 - (ii) any assessment of royalty, toll, duty or other dues;
 - (iii) the assessment of any work done or services rendered otherwise than in relation to research or scientific studies or in individual house-holds for house-hold purposes;
- (n) "verification" with its grammatical variations used with reference to a weight or measure or weighing or measuring instrument, includes the process of comparing, checking or testing such weight or measure or weighing or measuring instrument and also includes reverification; and
- (o) "weighing instrument" means any instrument for weighing and includes scales with the weights belonging thereto, scale-beams, balances, spring balances, steel-yards and other weighing machines.

CHAPTER II

STANDARD WEIGHTS AND MEASURES

Working standards.

3. (1) For the purpose of verifying the correctness of commercial weights and measures and weighing and measuring instruments used in transactions for trade or commerce, the Government may cause to be prepared as many sets of authenticated standard weights and measures as it may deem necessary to be called the working standards.

(2) The working standards shall be made of such material and according to such designs and specifications and shall be prepared by such agency and shall be stamped and authenticated by such person or authority and in such manner as may be prescribed.

(3) The working standards shall be kept at such places, in such custody and in such manner, as may be prescribed.

(4) A working standard shall be verified with the secondary standard and marked by such persons, at such places, at such intervals and in such manner, as may be prescribed.

(5) A working standard which is not so verified and marked within the prescribed period shall not be deemed legal or be used for the purposes of this Act.

(6) A working standard which has become defective shall not be deemed legal or be used for the purposes of this Act, until it has been verified and marked in the prescribed manner.

Secondary standards.

4. (1) For the purpose of verifying the correctness of the working standards, the Government may cause to be prepared at the mint as many sets of authenticated standard weights and measures as it may deem necessary to be called the secondary standards.

(2) The secondary standards shall be made of such material and according to such designs and specifications as may be prescribed and shall be stamped and authenticated by such person or authority as the Government may direct.

(3) The secondary standards shall be kept at such places, in such custody, and in such manner, as may be prescribed.

(4) A secondary standard shall be verified with the reference standard at least once in every period of five years and shall be marked with the date of verification in the prescribed manner by such person or authority as the Government may direct.

(5) A secondary standard which is not so verified and marked within the aforesaid period shall not be deemed legal and shall not be used for the purposes of this Act.

5. The reference standards shall be kept at such places, in such custody, and in such manner, as the Government may direct.

Reference standards.

6. (1) For the purpose of verifying the correctness of commercial weights and measures and of weighing and measuring instruments used in transactions for trade or commerce, the Government may cause to be prepared as many sets of weighing and measuring instruments as it may deem necessary.

Standard weighing and measuring instruments.

(2) Such instruments shall be of such kind, kept in such number and shall be verified and stamped in such manner as may be prescribed.

(3) Such instruments shall be kept at all places where secondary standards or working standards are kept.

7. (1) Notwithstanding anything contained in any other law or any custom, usage or practice, no unit of mass or measure, other than the standard weights or measures shall be used in any transactions for trade or commerce or any dealing or contract or for any work to be done or goods to be sold or delivered in any area or class of goods or undertakings in respect of which this Act has come into force or be kept in any premises where such transactions are usually conducted.

Prohibition of use of weights and measures other than standard weights and measures.

(2) Any custom, usage, practice or method of whatever nature which permits in any trade a trader, seller, or buyer to demand, receive or cause to be demanded or received any quantity of article in excess of, or less than, the quantity fixed by the weight or measure by which the contract or dealing in respect of the said article has been made, shall be void.

(3) Any transaction, dealing or contract made or had after the expiry of three months from the commencement of this Act shall, in so far as it contravenes the provisions of sub-section (1), be void.

8. (1) Notwithstanding anything contained in this Act, the Government may, by notification in the Official Gazette, direct that in any specified trade or class of trades no transaction, dealing or contract shall be made or had except by weight only, or except by measure only.

Power to prescribe the use of weights only or measures only, in certain cases.

(2) A notification issued under this section shall take effect in such area, with effect from such date, and subject to such conditions, if any, as may be specified therein.

CHAPTER III

VERIFICATION AND STAMPING OF WEIGHTS AND MEASURES

9. Every weight or measure manufactured for use as a commercial weight or measure shall bear the description of the weight or measure, which it purports to be marked legibly on it in such manner as may be prescribed.

Marking of denominations on commercial weights and measures.

Prohibition of sale of unstamped commercial weights and measures.

10. No commercial weight or measure or weighing or measuring instrument shall be sold or delivered unless it has been verified or reverified in accordance with the rules made under this Act and stamped in the prescribed manner by an Inspector with a stamp of verification.

Prohibition of use of unstamped commercial weights or measures.

11. No weight or measure or weighing or measuring instrument shall be used in transactions for trade or commerce unless it has been verified or reverified in accordance with the rules made under this Act and stamped in the prescribed manner by an Inspector with a stamp of verification.

Power of Government to exempt.

12. Where the size of a commercial weight or measure renders it impracticable to have any denomination marked on it under the provisions of section 9 or to be stamped under the provisions of section 10 or section 11, the Government may, by notification in the Official Gazette, exempt such weight or measure from being so stamped.

Prohibition of manufacture etc. of weights and measures without licence.

13. No person shall, in course of trade, manufacture, repair or sell any weight or measure or any weighing or measuring instrument, unless he has obtained in the prescribed manner a licence in this behalf from the Government or any officer authorised by it.

Marking of weight or measure on sealed containers.

14. No person shall sell, offer for sale, expose for sale, or have in his possession for sale, any article contained in a sealed package or container unless such package or container bears thereon, or on a label securely attached thereto, a description of the net weight or measure of the article contained therein:

Provided that the provisions of this section shall not apply to any article contained in a sealed package or container, if such articles are ordinarily sold in transactions for trade or commerce by counting their number:

Provided further that the Government may, if it is satisfied that the size of any class of such packages or containers renders it impracticable to comply with the provisions of this section, by notification in the Official Gazette, exempt such class from the operation of this section.

Prohibition of quoting price, or expressing quantity of any article otherwise than in terms of standard weight or measure.

15. No person shall, in any transaction for trade or commerce, quote the price, or express the quantity, of any article otherwise than in terms of the standard weight or measure.

Appointment of Controller and Inspectors.

16. (1) The Government may appoint a Controller of Weights and Measures for Himachal Pradesh and as many Inspectors of Weights and Measures as may be necessary for exercising the powers and discharging the duties conferred or imposed on them by or under this Act.

(2) The Government may, by general or special order define the local limits within which each Inspector shall exercise the powers and discharge the duties conferred or imposed on Inspectors by or under this Act.

(3) Subject to the provisions of this Act, all Inspectors shall perform their functions under the general superintendence and control of the Controller. The Controller may, in addition to the powers and duties

conferred or imposed on him by or under this Act, exercise any power or discharge any duty so conferred or imposed on Inspector.

17. (1) Every Inspector shall, for the purpose of verification of weights and measures and weighing and measuring instruments, attend at such place and time within his jurisdiction as may be appointed in this behalf by the Controller.

Verification and stamping by Inspectors.

(2) The Inspector shall verify every weight or measure or weighing or measuring instrument which is brought to him for the purpose of verification and if he finds such weight or measure or weighing or measuring instrument correct and in conformity with the Standards of Weights and Measures Act, 1956, and the rules made thereunder, he shall stamp the same with a stamp of verification in the prescribed manner.

Central Act 89 of 1956.

18. (1) An Inspector may, within the area under his jurisdiction, inspect at all reasonable times, the weights, measures and weighing and measuring instruments which are used in transactions for trade or commerce or are in the possession of any person or are on any premises for such use and may verify every such weight or measure or weighing or measuring instrument with a secondary or working standard or weighing or measuring instrument prescribed for the purpose.

Power to inspect etc.

(2) For the purpose of verifying the correctness of any weight or measure used in any transaction, an Inspector may also verify the weight or measure of any article sold or delivered in the course of the transaction.

(3) An Inspector may, at all reasonable times, require any trader or any employee or agent of a trader to produce before him for inspection or verification all weights, measures, and weighing and measuring instruments which are used by him or are in his possession or are kept on any premises used for trade and all documents and records relating thereto and such trader, employee or agent shall comply with such requirement.

(4) An Inspector may seize and detain any weight or measure or weighing or measuring instrument regarding which an offence under this Act appears to have been committed or which appears to have been or which might be used in the commission of such an offence, and may also seize and detain any articles sold or delivered or caused to be sold or delivered by means of such weight or measure or weighing or measuring instrument together with any documents or records relating thereto.

(5) Where an Inspector has reason to believe that sealed package or container does not actually contain the net weight or measure of the article which it purports to contain, the Inspector may break open the sealed package or container and verify its contents; and, if on such verification, the net weight or measure of the article is found to be correct, the Inspector shall reseal the package or container where it is possible so to do without injury to the contents thereof and attach a certificate thereto stating the correct weight or measure of the article, and where it is not possible to reseal such package or container, he shall tender the fair price thereof and may require a written acknowledgement therefor. But if, on the other hand, the net weight or measure of the article is found, on such verification, to be incorrect the Inspector may seize and detain the package or container and the article contained therein after tendering the fair price thereof where the seizure is made from any person other than the manufacturer and may file a complaint against the seller or manufacturer or both for contravention of the provisions of section 14.

(6) For the purpose of such inspection, an Inspector may, at all reasonable times, enter into any place where weights, measures or weighing or measuring instruments are used or kept for use in transactions for trade or commerce

and inspect such weights and measures and weighing and measuring instruments.

Explanation.—Where any premises is partly used for trade and partly for dwelling purposes, the whole of such premises shall for the purpose of this sub-section be treated as a place where weights or measures or weighing or measuring instruments are used or are kept for use in transactions for trade or commerce.

Power of Inspector to adjust weights or measures.

19. Where it appears to the Government desirable that an Inspector should be allowed in any area to adjust the weights or measures or weighing or measuring instruments, it may, if it thinks fit, authorise such Inspector to adjust weights or measures or such instruments accordingly.

Manufacturers etc. to maintain records and documents.

20. (1) Every manufacturer, repairer or dealer in weights or measures or weighing or measuring instruments and every person using them in transaction for trade or commerce shall maintain such records and accounts as may be prescribed and if required so to do by an Inspector, shall produce such records and accounts before him.

(2) Notwithstanding anything contained in sub-section (1), if the Government is of opinion that, having regard to the nature of business carried on by any such manufacturer, repairer or dealer, it is necessary so to do, it may, by order, exempt such person or class of persons from the operation of that sub-section.

Appeals.

21. (1) Subject to the provisions of sub-section (2), an appeal shall lie,—

- (a) from every decision of an Inspector under this Act to the Controller; and
- (b) from every decision of the Controller under this Act, not being a decision made in appeal under clause (a), to the Government or any officer specially authorised in this behalf by the Government.

(2) Every such appeal shall be preferred within sixty days from the date of the decision.

(3) On receipt of any such appeal, the appellate authority shall, after giving the appellant a reasonable opportunity of being heard and after making such enquiry as it deems proper, decide the appeal and the decision of the appellate authority shall be final.

Levy of fees.

22. The Government may charge such fees,—

- (a) for the grant of licences under section 13 for manufacture, repair or sale of weights and measures and weighing and measuring instruments; and
- (b) for the verification, marking, stamping and adjustment of commercial weights and measures and weighing and measuring instruments, as may be prescribed.

Validity of weights and measures duly stamped.

23. A weight or measure, or weighing or measuring instrument, duly stamped by an Inspector under this Act, shall be a legal weight or measure, or weighing or measuring instrument in all places in which this Act has come into force unless it is found to be false or defective and shall not be liable to be restamped by reasons merely of the fact that it is used in any place other than that in which it was originally stamped.

CHAPTER IV PENALTIES

24. Whoever, after the expiry of three months from the commencement of this section, sells or causes to be sold or delivers or causes to be delivered in the course of any transaction for trade or commerce any article by any denomination of weight or measure other than one of the standard weights or measures, or whoever after the commencement of this Act, keeps any unit of mass or measure other than one of the standard weights and measures in any premises where such transactions are usually conducted shall be punishable, for a first offence, with fine which may extend to two thousand rupees, and, for a second or subsequent offence, with imprisonment for a period which may extend to three months, or with fine, or with both.

Penalty for sale or delivery by weight or measure other than standard weight or measure.

25. Whoever sells or delivers any commercial weight or measure or any weighing or measuring instrument which has not been verified or re-verified or stamped in accordance with the provisions of this Act and the rules made thereunder shall be punishable with fine which may extend to two thousand rupees.

Penalty for sale of un-stamped commercial weights and measures.

26. Whoever uses in any transaction for trade or commerce, or has in his possession for such use, any commercial weight or measure or any weighing or measuring instrument which has not been verified or reverified or stamped in accordance with the provisions of this Act and the rules made thereunder shall be punishable, for a first offence, with fine which may extend to two thousand rupees and, for a second or subsequent offence, with imprisonment for a period which may extend to three months, or with fine, or with both.

Penalty for use of un-stamped commercial weights and measures.

Explanation 1.—When any such weight or measure or weighing or measuring instrument is found in the possession of any trader or any employee or agent of such trader, such trader, employee or agent shall be presumed, until the contrary is proved, to have had it in his possession for use in transactions for trade or commerce.

Explanation 2.—Where any weight or measure or weighing or measuring instrument is used or possessed in contravention of this section by any employee or agent of a trader on behalf of such trader, such trader shall, unless he proves that the offence under this section was committed by his employee or agent without his knowledge or consent, be also deemed to be guilty of the offence.

27. If any person manufactures, repairs, or sells any weight or measure or weighing or measuring instrument without obtaining a licence as required by section 13, he shall be punishable with imprisonment for a period which may extend to three months, or with fine which may extend to two thousand rupees, or with both.

Penalty for manufacture of weights etc. without licence.

28. Whoever contravenes any of the provisions of a notification issued under section 8 shall be punishable with fine which may extend to two thousand rupees.

Penalty for use of weights or measures in contravention of section 8.

29. Whoever contravenes the provisions of section 14 shall be punishable with fine which may extend to two thousand rupees.

Penalty for failure to mark weight or measure on sealed containers.

Penalty for quoting prices or expressing quantities otherwise than in terms of standard weight or measure in contravention of section 15.

Penalty for fraudulent use of weights, measures etc.

Penalty for being in possession of false weight or measure etc.

Penalty for making or selling false weight or measure.

Penalty for delivering or receiving any quantity or article less than, or in excess of, the quantity fixed by the weight or measure in the contract.

Penalty for forging etc. of weights, measures etc.

30. Whoever contravenes the provisions of section 15 shall be punishable with fine which may extend to two thousand rupees.

31. Whoever fraudulently uses any standard weight or measure or weighing or measuring instrument which he knows to be false shall be punishable with imprisonment for a period which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

32. Whoever is in possession of any commercial weight or measure or weighing or measuring instrument which he knows to be false, intending that the same may be fraudulently used, shall be punishable with imprisonment for a period which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

33. Whoever makes, sells or disposes of or causes to be made, sold or disposed of any standard weight or measure or weighing or measuring instrument which he knows to be false in order that the same may be used as true or knowing that the same is likely to be used as true, shall be punishable with imprisonment for a period which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

34. Whoever—

(i) in selling any article by weight or measure delivers or causes to be delivered to the purchaser any quantity of that article less than, or

(ii) in buying any article by weight or measure demands or receives or causes to be demanded or received from the vendor any quantity of that article in excess of,

the quantity fixed by the weight or measure by which the contract or dealing in respect of that article has been made, shall be punishable with fine which may extend to two thousand rupees.

35. (1) Whoever forges or counterfeits any stamp used under this Act for the stamping of any standard weight or measure or weighing or measuring instrument, or possesses any such counterfeit stamp, or removes a stamp from any standard weight or measure or weighing or measuring instrument and inserts the same into another weight or measure or weighing or measuring instrument, or wilfully increases or diminishes a weight or measure so stamped, shall be punishable with imprisonment for a period which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

(2) Whoever knowingly uses, sells, disposes of or exposes for sale any weight or measure or weighing or measuring instrument with such forged or counterfeit stamp thereon, or a weight or a measure so increased or diminished shall be punishable with imprisonment for a period which may

extend to six months, or with fine which may extend to two thousand rupees, or with both.

36. Whoever—

- (a) refuses or neglects to produce for inspection under section 18, any weight or measure or weighing or measuring instrument or any document or record relating thereto in his possession or on his premises; or
- (b) refuses to permit an Inspector to inspect and verify any such weight, measure, instrument, document or record; or
- (c) obstructs the entry of an Inspector under section 18; or
- (d) otherwise obstructs or hinders an Inspector in the performance of his duties under this Act;

Penalty for neglect or refusal to produce weight or measure etc. for inspection.

shall be punishable with fine which may extend to five hundred rupees.

37. If any Inspector knowingly stamps a weight or measure or weighing or measuring instrument in contravention of the provisions of this Act or of the rules made thereunder, he shall be punishable with imprisonment for a period which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

Penalty for breach of duty by Inspector.

CHAPTER V

MISCELLANEOUS

38. No suit, prosecution or other legal proceeding shall lie against the Controller or any Inspector or any other person appointed under this Act in respect of anything which is in good faith done or intended to be done in pursuance of this Act or rules made thereunder.

Protection of action taken in good faith.

39. The Controller and every Inspector appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860.

Controller etc. appointed under this Act to be public servants.

40. (1) No court shall take cognizance of an offence punishable under this Act except upon complaint in writing made by the Controller or any officer authorised in this behalf by the Controller by general or special order.

Cognizance of offences etc.

(2) No court inferior to that of a magistrate of first class shall try any offence punishable under this Act.

41. (1) Any offence punishable under section 24, section 25, section 26, section 28, section 29, section 34 or section 36 other than a second or subsequent offence under section 24 or section 26 may, either before or after the institution of the prosecution, be compounded by the Government on payment of such sum as it thinks fit.

Composition of offences.

(2) On payment by the offender of such sum, the offender, if in custody, shall be set at liberty and if any proceedings in any criminal court have been instituted against the offender in respect of the offence, the composition shall be deemed to amount to an acquittal and no further criminal proceedings shall be taken against him in respect of such offence.

42. A weight or measure or weighing or measuring instrument duly stamped under the provisions of this Act and the rules made thereunder shall be presumed to be correct until its inaccuracy is proved, if this is

Stamped weights etc. to be presumed to be correct.

produced in any court by any Inspector having charge thereof or by any person acting under the general or special authority of the Controller.

Offences by companies.

43. (1) If the person committing an offence under this Act is a company, every person who, at the time of the commission of the offence, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director” in relation to a firm, means a partner in the firm.

Delegation of powers.

44. The Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act or rules made thereunder shall, in relation to such matters and subject to such conditions as may be specified in the direction, be exercisable also by such officer or authority subordinate to the Government as may be specified in the notification.

Limits of error to be tolerated in weights and measures.

45. Subject to any rules that may be made under the Standards of Weights and Measures Act, 1956, in this behalf, the Government may prescribe the limits of error which may be tolerated,—

(a) in secondary standards referred to in section 4;

(b) in working standards referred to in section 3;

(c) in commercial weights and measures or in selling articles by weight or measure generally or as regards, any trade or class of trades; and

(d) weighing and measuring instruments.

Power to make rules.

46. (1) The Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the material of which, and the designs and specifications according to which, working standards may be made, the agency by which such standards may be prepared, the person by whom, or the authority by which, and the manner in which, such standards may be stamped and authenticated, the places at which, and the custody and manner in which, such standards may be kept;

(b) the procedure for the verification or re-verification and marking of working standards, the persons by whom, the places at which, and the intervals at which, they may be marked;

Central Act
89 of 1956.

- (c) the material of which, and the designs and specifications according to which, secondary standards may be made, the places at which, and the custody and manner in which, such standards may be kept;
- (d) the procedure for the verification or reverification and marking of secondary standards and the manner in which they may be marked;
- (e) the number of weighing and measuring instruments to be kept, the manner in which they may be verified and stamped and necessary particulars regarding the same;
- (f) the manner in which commercial weights and measures may be marked by manufacturers;
- (g) the form and manner in which, and the conditions subject to which, licences may be granted to persons for manufacture, repair or sale of weights and measures and weighing and measuring instruments;
- (h) the qualifications, functions and duties generally of Inspectors under this Act;
- (i) verification and stamping of weights and measures and weighing and measuring instruments and the period within which they are to be verified;
- (j) inspection of weights and measures and weighing and measuring instruments used in transactions for trade or commerce;
- (k) the seizure, detention and disposal of weights and measures which are not authorised by this Act;
- (l) the books, accounts and records relating to weights and measures and weighing and measuring instruments to be maintained and the manner in which they may be maintained or produced;
- (m) the limits of error which may be tolerated in secondary or working standards;
- (n) the limits of error which may be tolerated in weights and measures and weighing and measuring instruments used or intended to be used in transactions for trade or commerce;
- (o) the limits of error which may be tolerated in selling articles by weights or measures generally or as regards any trade or class of trades;
- (p) the form and manner in which appeals may be preferred against decisions of, Inspectors and the procedure for hearing appeals;
- (q) the fees which may be charged for the grant of licences under section 13 and for verification, reverification, adjustment and stamping of weights and measures and weighing and measuring instruments and the collection and levy of the same;
- (r) the material, form and specification and manufacture and sale of commercial weights and measures and weighing and measuring instruments; and
- (s) any other matter which has to be, or may be, prescribed.

(3) In making any rule under this section the Government may provide that a breach thereof shall be punishable with fine which may extend to five hundred rupees.

(4) The power to make rules under this section shall be subject to the condition of previous publication in the Official Gazette.

(5) Every rule made under this Act, shall be laid as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one

session or in two or more successive sessions and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or a annulment shall be without prejudice to the validity of anything previously done under that rule.

Repeal and savings.

47. (1) The Rajasthan Weights and Measures (Enforcement) Act, 1958, as applied to Union territory of Himachal Pradesh, and the Punjab Weights and Measures (Enforcement) Act, 1958 as in force in the territories added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, are hereby repealed:

32 of 1958

22 of 1958

31 of 1966

Provided that,—

(a) every appointment, order, rule, bye-law, regulation, notification or notice made, issued or given under the provisions of the Acts so repealed shall in so far as it is not inconsistent with the provisions of this Act, be deemed to have been made, issued or given under the provisions of this Act, unless and until superseded by any other appointment, order, rule, bye-law, regulation, notification or notice made, issued or given under this Act;

(b) any proceeding relating to the trial of any offence punishable under the provisions of the Acts so repealed, shall be continued and completed as if the said Acts have not been repealed but have continued in operation, and any fine imposed in such proceeding shall be recovered under the Acts so repealed, as if the said Acts have not been repealed.

(2) Nothing in this Act shall apply to weights or measures or weighing or measuring instruments used by or in any unit or establishment of the Armed Forces of the Union.

STATEMENT OF OBJECTS AND REASONS

At present, there are two different Acts in force in Himachal Pradesh which provide for the enforcement of standard weights and measures and for matters connected therewith. One of such Acts is, the Rajasthan Weights and Measures (Enforcement) Act, 1958, as applicable to the areas comprised in Himachal Pradesh immediately before the 1st November, 1966, and the other is, the Punjab Weights and Measures (Enforcement) Act, 1958, which is in force in the territories added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966. With a view to bringing about uniformity, it has been considered necessary to enact one unified law on the subject for the whole of Himachal Pradesh. This Bill seeks to achieve the aforesaid object.

SIMLA:

The 3rd July, 1968.

PADAM DEV,

Forest Minister.

FINANCIAL MEMORANDUM

The provisions of this Bill are mostly identical with those of the Acts to be repealed and as such, no expenditure is to be incurred, over and above the one which is being incurred at present.

MEMORANDUM ON DELEGATED LEGISLATION

Clause 46 of the Bill empowers the State Government to make rules to carry out the purposes of the Bill and in particular for the matters enumerated therein. The proposed delegation is normal in character.

Simla-4, the 3rd July, 1968

No. 1-37/68-VS.—In pursuance of Rule 135 of the Rules of Procedure and Conduct of Business for the Himachal Pradesh Legislative Assembly, 1964, "The Himachal Pradesh Silkworm Seed Control Bill, 1968 (Bill No. 24 of 1968)" as introduced in the Legislative Assembly on the 3rd July, 1968 is hereby published in the Himachal Pradesh Government Gazette.

Bill No. 24 of 1968

THE HIMACHAL PRADESH SILKWORM SEED CONTROL BILL, 1968

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to regulate the rearing of silkworm and to prohibit the use of unexamined silkworm seeds in Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Nineteenth Year of the Republic of India as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Himachal Pradesh Silkworm Seed Control Act, 1968.

(2) It extends to whole of Himachal Pradesh.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) 'Government' means the Government of Himachal Pradesh;

(b) 'Official Gazette' means the Rajpatra, Himachal Pradesh;

(c) 'prescribed' means prescribed by rules made under this Act;

(d) 'rearing' includes all operations from the incubation of silkworm eggs and brushing of silkworms to the harvesting of cocoons;

(e) 'silkworms' includes mulberry silkworms, tussar silkworms, muga silkworms and eri silkworms; and

(f) 'silkworm seed' means silkworm cocoons, moths, eggs, or young silkworms of whatever description intended to be used for the purposes of reproduction of rearing.

Regulation
of manufac-
ture etc. of
silkworm
seed.

3. No person shall manufacture, store, transport, sell or otherwise distribute silkworm seed except under and in accordance with the terms of a licence issued under this Act.

Regulation
of rearing.

4. No person shall rear silkworm except from silkworm seed obtained from a person who holds a licence under this Act.

Application
for licence.

5. Every application for the grant of a licence under section 3 shall be made in such form and to such authority as may be prescribed.

Power of
inspection.

6. The authority prescribed under section 5 or any officer authorised by it in writing in this behalf may, at any reasonable time for the purpose of ensuring due compliance with the provisions of this Act, enter and inspect the particular place where silkworms are reared.

Penalties

7. Whoever contravenes any of the provisions contained in section 3 or section 4, or any rule made under this Act, or obstructs any authority in the discharge of any duty imposed on it by this Act shall, on conviction, be punishable with fine which may extend to one hundred rupees.

Power to
make rules.

8. (1) The Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the constitution of authorities for granting licences;
- (b) the form and manner in which applications for licences may be made and the payment of fees therefor, if any; and
- (c) the terms and conditions which may be included in any licence.

(3) Every rule under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

7 of 1953 9. The Punjab Silkworm Seed Control Act, 1953, as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, is hereby repealed:

Repeal and savings.

11 of 1966 Provided that anything done or any action taken or any proceedings commenced or continued under the said Act shall be deemed to have been done, taken, commenced or continued under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

The Punjab Silkworm Seed Control Act, 1953, the object of which is to regulate the rearing of silkworm and prohibit the use of unexamined silkworm seeds, is in force in the areas transferred to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966. But there is no such law in force in the areas comprised in Himachal Pradesh immediately before 1st November, 1966. With a view to bringing about uniformity, it is intended to have one unified law on the subject for the whole of Himachal Pradesh and this Bill seeks to achieve the object.

PADAM DEV,
Forest Minister.

SIMLA :
The 3rd July, 1968.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM ON DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Government to make rules in respect of the matters enumerated therein. The proposed delegation is normal in character.

Simla-4, the 15th July, 1968

No. 1-46/68-VS.—In pursuance of Rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, 1964, "The Indian Forest (Himachal Pradesh Amendment) Bill, 1968 (Bill No. 31 of 1968)" as introduced in the Legislative Assembly on the 15th July, 1968 is hereby published in the Himachal Pradesh Government Gazette.

Bill No. 31 of 1968

THE INDIAN FOREST (HIMACHAL PRADESH AMENDMENT)

BILL, 1968

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to amend the Indian Forest Act, 1927 (Central Act 16 of 1927) in its application to Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Nineteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Forest (Himachal Pradesh Amendment) Act, 1968.

Short title and extent.

(2) It shall extend to the whole of Himachal Pradesh.

16 of 1927

2. In section 1 of the Indian Forest Act, 1927, in its application to the Union territory of Himachal Pradesh (hereinafter referred to as the principal Act), after sub-section (2), the following sub-section shall be inserted, namely:—

Amendment of section 1.

“(2A) Notwithstanding anything contained in sub-section (2), it also extends to such territories which, immediately before the 1st November, 1956, were comprised in the State of Patiala and East Punjab States Union, and have since merged with Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.”

31 of 1966

3. In sub-section (1) of section 38 of the principal Act, for the words ‘the owners of shares therein amounting in the aggregate to at least two thirds thereof’, the words ‘the owners of the majority of shares therein’ shall be substituted.

Amendment of section 38.

4. In sections 52, 53 and 55 of the principal Act, for the word ‘carts’ wherever it occurs, the word ‘vehicles’ shall be substituted.

Amendment of sections 52, 53 and 55.

5. For section 82 of the principal Act, the following section shall be substituted, namely:—

Substitution of section 82.

“82. *Recovery of money due to Government.*—(1) All money payable to the State Government under this Act or under any rule made under this Act or on account of the price of timber, or other forest produce, or of expenses incurred in execution of this Act in respect of timber and other forest produce, or under any contract relating to timber and other forest produce including any sum recoverable thereunder for the breach thereof, or in consequence of its cancellation, or under the terms of a notice relating to the sale of timber or other forest produce by auction or by invitation of tenders, issued by or under the authority of a Forest Officer and all compensation awarded to the State Government under this Act may, if not paid when due,

be recovered under the law for the time being in force, as if it were an arrear of land revenue.

- (2) For the removal of doubts, it is hereby declared that the provisions of sub-section (1) shall also apply to all cases of recovery which are either pending at the commencement of the Indian Forest (Himachal Pradesh Amendment) Act, 1968 or are initiated thereafter in respect of contracts entered into prior to such commencement, any judgment, decree or order of any court to the contrary notwithstanding."

Insertion of
new section
84-A.

6. After section 84 of the principal Act, the following section shall be inserted, namely:—

"84A. *Validity of settlements etc. of covenanting States.*—For the removal of doubts, it is hereby declared that every settlement or arrangement made before the 20th August, 1948, under the authority of the Government of any covenanting State forming part of the territories referred to in sub-section (2 A) of section 1, with respect to any claims or rights of any persons admitted by the Government of that State to be in existence in any of the forests or waste lands which were the property of that Government or over which that Government had proprietary rights or to the whole or part of the forest produce of which that Government was entitled, shall be deemed to be a settlement of claims and rights made under this Act and all such claims and rights shall be deemed to be claims and rights duly inquired into and admitted for the purposes of this Act and shall be deemed always to have been so inquired and admitted for the purposes of the Patiala Forest Act, 1999 Bk, and it shall not be, and shall be deemed never to have been, necessary to determine the rights of persons in accordance with chapters II and IV, as the case may be, for declaring any forest or waste land to be a reserved or protected forest or a first or second class forest."

Repeal and
savings.

7. (1) The Indian Forest (East Punjab Amendment) Act, 1948, the Indian Forest (Punjab Amendment) Act, 1954 and the Indian Forest (Punjab Amendment) Act, 1962, in so far as these apply to the areas merged in Himachal Pradesh under section 5 of the Punjab Re-organization Act, 1966, are hereby repealed:

7 of 1948
20 of 1954
13 of 1962

Provided that such repeal shall not affect—

- (a) the previous operation of the Acts so repealed or anything duly done or suffered thereunder; or
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under the Acts so repealed; or
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the Acts so repealed; or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; or
- (e) operation of section 39 of the Patiala Forest Act, 1999 Bk, which is a saving under section 7 of the Indian Forest (Punjab Amendment) Act, 1962,

13 of 1962

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

(2) Subject to the provisions of sub-section (1), anything done or any action taken (including any appointment or delegation made, notification, order, instruction or direction issued, rule, regulation, bye-law or form framed) so far as it is not inconsistent therewith, shall be deemed to have been done or taken under the principal Act as so amended:

Provided that all forests which, immediately before the commencement of the Indian Forest (Punjab Amendment) Act, 1962, are, or are deemed to be, first and second class forests under the Acts repealed by sub-section (1) shall, respectively, be deemed to be reserved and protected forests for the purposes of the principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

It has been held by the Supreme Court in the case of *M/s Gajjan Mal Mohan Lal versus State of Himachal Pradesh* that the provisions of section 82 of the Indian Forest Act, 1927 do not cover recovery of damages for the loss occasioned by the breach of contract. Further, there is no provision in section 82 of the Indian Forest Act for the recovery of the money due to the Government under any contract relating to timber and other forest produce including any sum recoverable thereunder for the breach thereof, or in consequence of its cancellation, or under the terms of a notice relating to the sale of timber or other forest produce by auction or by invitation of tenders, issued by or under the authority of a Forest Officer or any compensation awarded to the State Government. It is necessary for the realisation of the Government dues that a speedier remedy should be provided for the matters which are not already covered under section 82 of the Indian Forest Act. Further it is necessary to amend certain provisions of the Indian Forest Act in order to bring about uniformity of the law as applicable in the areas which merged in Himachal Pradesh by virtue of section 5 of the Punjab Re-organisation Act, 1966 and the areas of Himachal Pradesh as existed before 1st November, 1966. This Bill seeks to achieve the aforesaid objects.

SIMLA:
The 15th July, 1968.

PADAM DEV,
Forest Minister.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM REGARDING DELEGATED LEGISLATION

Nil

Simla-4, the 16th July, 1968

No. 1-42/68-VS.—In pursuance of Rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, 1964, "The Himachal Pradesh Water Supply Bill, 1968 (Bill No. 32 of 1968)" as introduced in the Legislative Assembly on the 16th July, 1968 is hereby published in the Himachal Pradesh Government Gazette.

THE HIMACHAL PRADESH WATER SUPPLY BILL, 1968

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to provide for the development, control and management of the water supply works in rural and urban areas of Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Nineteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Water Supply Act, 1968.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions

(i) 'Beneficiary' means in respect of any water supply scheme, any local authority for the time being deriving, or which is to derive, benefit from such scheme;

(ii) 'Consumer' means a person who takes water from a beneficiary to whom a water supply scheme may be entrusted or who takes water from a water supply scheme managed directly by the Government;

Explanation.—Consumer does not include a beneficiary.

(iii) 'Co-operative society' means a society registered or deemed to be registered under the provisions of the Himachal Pradesh Co-operative Societies Act, 1956, or the Punjab Co-operative Societies Act, 1961, as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966;

(iv) 'Official Gazette' means the Rajpatra, Himachal Pradesh;

(v) 'Government' or 'State Government' means the Government of Himachal Pradesh;

(vi) 'Gram Panchayat', 'Panchayat Samiti', and 'Zila Parishad' have the meanings respectively assigned to these expressions in the Himachal Pradesh Panchayat Raj Act, 1952, or the Punjab Gram Panchayat Act, 1952, or the Punjab Panchayat Samities and Zila Parishads Act, 1961;

(vii) 'Local authority' means a co-operative society, gram panchayat, panchayat samiti, zila parishad, municipal committee or any other authority entrusted by the Government with the development, or control or management of a water supply scheme;

(viii) 'Municipal Committee' and 'Notified Area Committee' have the meanings respectively assigned to these expressions in the Punjab Municipal Act, 1911, as in force in Himachal Pradesh;

(ix) 'Prescribed' means prescribed by rules made under this Act;

(x) 'Rural area' means the whole of the territories of Himachal Pradesh with the exclusion of the urban area;

(xi) 'Schedule' means schedule to this Act;

(xii) 'Scheme' means a water supply scheme initiated under section 3;

(xiii) 'Urban area' means the towns specified in the schedule;

13 of 1956

2 of 1951

31 of 1966

(xiv) 'Water rate' means the charge for the time being levied or that may be levied in future for water supplied to a consumer, by a water supply scheme managed directly by the Government or by beneficiary to whom the scheme may be entrusted.

Water supply scheme.

3. The State Government may, from time to time, initiate drinking water supply scheme for the benefit of the public in rural and urban areas in Himachal Pradesh and may also maintain and improve the existing water supplies.

Recovery of cost.

4. (1) The State Government shall, in the first instance, spend the entire amount on all the schemes and on the improvement of the existing water supplies in Himachal Pradesh and shall recover from the beneficiaries or consumers, as the case may be, in the manner hereinafter provided,—

(a) 25 per cent of the capital cost and interest thereon in respect of urban water supply schemes;

(b) 12½ per cent of the capital cost and the interest thereon in respect of rural water supply schemes.

(2) The cost of maintenance and replacement of water supply scheme shall also be recovered by the State Government from the beneficiaries or consumers, as the case may be, and in the manner hereinafter provided.

(3) The rate of interest on the capital cost may be determined by the State Government from time to time.

Levy of water rates.

5. (1) The State Government shall levy a water rate, from time to time, to recover the capital cost, as specified in clauses (a) and (b) of sub-section (1) of section 4, and the cost of maintenance and replacements and interest thereon, and such water rate shall be payable by the consumer in whose name the connection is registered:

Provided that the water rate shall not exceed one rupee per thousand gallons of water for domestic use and two rupees per thousand gallons of water for commercial use:

Provided further that the water rate in the case of pumped water supply may be double of the water rate mentioned in the first proviso.

(2) The water rate shall be levied in consultation with a committee appointed for this purpose by the State Government in the prescribed manner.

(3) The recovery of the water charges shall be effected from the individuals on the basis of flat rate or on the basis of metered connections.

(4) The water rate levied shall, if not paid when due, be recovered as if it were an arrear of land revenue.

Handing over of water supply schemes.

6. (1) Where a local authority is prepared to take over and maintain any scheme as a beneficiary, the State Government shall hand over the development, management or control of such scheme to such local authority provided that it deposits with the Government, its share of capital cost and interest thereon payable under clauses (a) and (b) of sub-section (1) of section 4, as the case may be, and cost of maintenance and replacement payable under sub-section (2) of section 4, as worked out and due on the date of handing over:

Provided that the local authority may be allowed by the Government to pay the amount aforesaid in such number of yearly instalments not exceeding twenty as the Government may deem proper and in such a case, the development, management or control of the scheme to the local authority shall not be handed over until such local authority gives an undertaking in writing to pay the amount by instalments as allowed.

(2) The local authority, which takes over a scheme under sub-section (1) of this section, shall fix water rate as it considers necessary and shall be responsible for the efficient management of such scheme.

(3) The water rate that the local authority may fix shall, in no case, exceed the maximum as provided in the provisos to sub-section (1) of section 5.

(4) The water rate levied by the State Government, if any, shall cease to have effect on the fixation of such rate by the local authority.

7. (1) All schemes taken over by beneficiaries under section 6 shall be subject to the general superintendence and control of the State Government and the working of the schemes shall be liable to periodical inspection by an agency of the State Government in the prescribed manner.

General control by the State Government.

(2) Should a beneficiary be incompetent to perform, or persistently make default in the performance of the duties imposed on it by or under this Act, or exceed or abuse its powers, or fail or neglect to maintain the scheme in an efficient manner, the State Government may, by notification in which the reasons for so doing shall be stated, take back the development, management or control of the scheme from the beneficiary:

Provided that before the notification mentioned in sub-section (2) is made, the beneficiary shall be given a reasonable opportunity in the prescribed manner of showing cause against the action proposed to be taken.

(3) When the development, management and control is so taken back, the following consequences shall ensue:—

- (a) the development, management and control of the scheme shall, from the date of the notification, vest in the State Government;
- (b) the water rate levied by the beneficiary shall continue to be operative until substituted by a fresh water rate fixed by the State Government.

(4) The State Government shall review the position, at such intervals as may be prescribed, but which shall not be less than one year, and may, if it shall think fit, at any time, re-entrust the scheme to the beneficiary.

8. (1) Any consumer who has a water connection registered in his name shall be liable to pay a water rate to the beneficiary in case a scheme has been handed over to that beneficiary for development, management and control of a water supply scheme.

Liability of consumer.

(2) In case there is no beneficiary and a water supply scheme is managed by the State Government directly, the consumer shall be liable to pay the water rate to the State Government.

9. The State Government shall have the power to add, to amend, vary or rescind the schedule.

Powers of State Government to modify the schedule.

10. (1) Whoever, without proper authority, and voluntarily, does any of following acts, that is to say:—

Offences under the Act.

- (a) corrupts or fouls the water of any water supply scheme so as to render it less fit for the purpose for which it is ordinarily used;
- (b) destroys, damages, alters, obstructs or injures, any dam, well, embankment, sluice, reservoir, pipe, tap, structure, or other works constructed, maintained or controlled by the State Government or by a beneficiary for purification, storage or supply of water under a water supply scheme;

(c) violates any rule made under this Act, for breach whereof, a penalty may be incurred, shall be liable, on conviction before a Magistrate of such class as the State Government directs in this behalf in the prescribed manner, to a fine not exceeding five hundred rupees, or to imprisonment not exceeding one month, or to both.

(2) Nothing herein contained shall prevent any person from being prosecuted under any other law for any offence punishable under this Act, provided that no person shall be punished twice for the same offence.

(3) Nothing herein contained shall prevent the State Government or the beneficiary, as the case may be, from recovering damages from the person who commits any of the acts mentioned in sub-section (1) of this section.

Power to
make rules.

11. (1) The State Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe for,—

(a) the principles and conditions on which the schemes under section 3 shall be initiated;

(b) the time and manner of the recovery of capital cost under section 4;

(c) appointment of a committee under section 5;

(d) matters required to be considered by the committee appointed under section 5 for ensuring the efficient management by the beneficiary of water supply schemes under section 6; and

(e) any other matter which is to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Rights of
Municipal
Committee.

12. The provisions of this Act shall not affect the rights of the Municipal Committees enjoyed by them under the Punjab Municipal Act, 1911, as in force in Himachal Pradesh.

Repeal and
savings.

13. (1) The Himachal Pradesh Water Supply Act, 1956, as in force in the areas comprised in Himachal Pradesh immediately before 1st November, 1966, is hereby repealed.

15 of 1956

(2) Notwithstanding the repeal of the Act under sub-section (1), anything done or any action taken, including any orders, notifications issued and rules made in exercise of the powers conferred by or under the said Act shall, to the extent of being consistent with the provisions of this Act, be deemed to have been done or taken in exercise of the corresponding powers conferred by or under this Act.

THE SCHEDULE

MAHASU DISTRICT

Theog, Rampur, Solan, Jubbal and Arki.

SIRMUR DISTRICT

Nahan, Sarahan, Paonta Sahib, Majra and Rajgarh.

CHAMBA DISTRICT

Chamba, Bharmour, Chowari, Tissa and Bhandal.

MANDI DISTRICT

Mandi, Jogindernagar, Sarkaghat, Sundernagar and Karsog.

BILASPUR DISTRICT

New Bilaspur Township and Ghumarwin.

KINNAUR DISTRICT

Peo, Karcham, Sangla, Kalpa, Pauri, Pangi and Kanam.

KANGRA DISTRICT

Kangra, Dharamsala, Dehragopipur, Palampur, Baijnath, Una and Nurpur.

SIMLA DISTRICT

Simla, Kandaghat, Nalagarh, Dharampur and Kasauli.

KULU DISTRICT

Kulu, Manali, Banjar, Nirmand, Ani, Outer Seraj.

LAHAUL AND SPITI

Keylong and Kaza.

STATEMENT OF OBJECTS AND REASONS

The Himachal Pradesh Water Supply Act, 1956, which provides for the development, control and management of the water supply works, is in force in the areas comprised in Himachal Pradesh immediately before 1st November, 1966. There is no such law, in the areas transferred to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966. With a view to bringing about uniformity in the matter of such law, it has been considered necessary to have one unified law for the whole of Himachal Pradesh and this Bill seeks to achieve the object.

SIMLA:
The 16th July, 1968.

KARAM SINGH,
Finance Minister.

FINANCIAL MEMORANDUM

According to clause 4 of Himachal Pradesh Water Supply Bill, 1968 the whole of the expenditure for implementation of various Drinking Water Supply Schemes shall be incurred by the Government in first instance. The recovery from the beneficiaries or consumers will be made on yearly instalment basis in 20 years in the manner given below:—

- (i) 25 per cent of the capital cost and interest thereon in respect of Urban Water Supply Schemes.
- (ii) 12½ per cent of the capital cost and the interest thereon in respect of Rural Water Supply Schemes.
- (iii) The cost, maintenance and replacement of water supply schemes shall also be recovered by the State Government from the beneficiaries or consumers, as the case may be.
- (iv) The rate of interest on the capital cost may be determined by the State Government from time to time.
- (v) The recovery of the beneficiaries share when the scheme is handed over to the beneficiaries should be made in yearly instalments extending over a period of 20 years.

Himachal Pradesh Water Supply Act, 1956 is applicable to the areas of Himachal Pradesh as it existed before 1st November, 1966. In the newly integrated areas the Government is already spending money for execution of the water supply schemes and for this purpose provision exists in the Budget.

There will not be any new expenditure on account of the Himachal Pradesh Water Supply Bill, 1968.

MEMORANDUM ON DELEGATED LEGISLATION

Clause 11 empowers the Government to make rules in respect of the matters mentioned therein. The proposed delegation is normal in character. These rules shall be laid before the Legislative Assembly as soon as may be after they are made as per clause 11 (3).

Simla-4, the 15th July, 1968

No. 1-43/68-VS.—In pursuance of Rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, 1964, "The Himachal Pradesh Minor Canals Bill, 1968 (Bill No. 33 of 1968)" as introduced in the Legislative Assembly on the 15th July, 1968 is hereby published in the Himachal Pradesh Government Gazette.

Bill No. 33 of 1968

THE HIMACHAL PRADESH MINOR CANALS BILL, 1968

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A BILL

to make better provision for the control and management of minor canals and to provide for the levy of water charges thereon in Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Nineteenth Year of the Republic of India as follows:—

CHAPTER I PRELIMINARY

1. (1) This Act may be called the Himachal Pradesh Minor Canals Act, 1968.

Short title,
extent and
commence-
ment.

(2) It shall extend to the whole of Himachal Pradesh.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint in this behalf.

2. (1) The provisions of this Act shall apply to the extent and in the manner hereinafter provided to every canal specified in either Schedule I or Schedule II, as the case may be.

Operation
of this Act.

(2) At any time after the commencement of this Act, the State Government may, from time to time, by notification,—

(a) include any canal under either Schedule I or Schedule II, as the case may be, or transfer a canal from one Schedule to the other Schedule, and thereupon the provisions of this Act applicable to canals included under such Schedule, or such of the said provisions as the State Government may direct, shall apply to such canal; or

(b) exclude from the operation of this Act any canal included under either Schedule I or Schedule II:

Provided that no canal shall be included under Schedule I, unless—

(a) it is owned in whole or in part by the Government; or

(b) is at the commencement of this Act, managed by the Government or by any local authority; or

(c) is situated partly within and partly without the territories to which this Act extends; or

(d) has been included under Schedule II and is transferred to Schedule I by direction of the State Government.

3. In this Act, unless there is something repugnant in the subject or context,—

Definitions

(i) “beneficiary” means in respect of any canal, any person for the time being deriving, or who is to derive, benefit, directly or indirectly, from such canal;

(ii) “canal” means any canal, natural or artificial channel or line of natural drainage or any reservoir, dam or embankment, well, tubewell and lift irrigation arrangements constructed, maintained or controlled for the supply or storage of water or the protection of land from flood or sand, and includes any water-course or subsidiary works as defined in this section;

(iii) “Collector” means the head revenue officer of a district and

- includes any officer appointed or so authorised by the Government under this Act to exercise all or any of the powers of a Collector;
- (ii) "Commissioner" means any officer appointed under this Act to exercise all or any of the powers of a Commissioner;
- (v) "construction" or "construct" includes any alteration which would materially extend the area irrigable by a canal or any other alteration of material importance or the renewal of a canal after disuse for six years, but does not include the re-excavation of a canal-head which has been temporarily abandoned owing to change in the river, the excavation of a new head necessitated by a change in the river or a change of water-courses to render existing irrigation more efficient;
- (vi) "creek" means any channel of a river other than the main channel through which the water of the river would, unless obstructed by deposit of silt, naturally flow at some period of the year;
- (vii) "district" means a district as fixed for revenue purposes;
- (viii) "Government" or "State Government" means the Government of Himachal Pradesh;
- (ix) "irrigator" means, in respect of any land which is irrigated from a canal, any person for the time being directly deriving benefit by such irrigation and includes a landowner or any other person having interest in such land;
- (x) "labour" includes labourers, cattle and appliances necessary for the execution of the work for which labour is to be supplied;
- (xi) "local authority" means a municipal committee, small town committee, notified area committee, gram panchayat, panchayat samiti, zila parishad or other authority legally entitled to or entrusted by the Government with the control or management of the municipal or local fund;
- (xii) "mill" means any contrivance whereby the water power of any canal is used for grinding, sawing or pressing, or for driving or working machinery or for any other similar purpose, and includes all subsidiary works and structures connected with any such contrivance except the canal itself;
- (xiii) "notification" means notification published under proper authority in the Official Gazette;
- (xiv) "Official Gazette" means the Rajpatra, Himachal Pradesh;
- (xv) "prescribed" means prescribed by rules made under this Act;
- (xvi) "record-of-right" and "Revenue Officer" have the meanings assigned to them respectively in the Himachal Pradesh Land Revenue Act, 1954;
- (xvii) "subsidiary works" means all works required for the control or maintenance of the supply to a canal or for the maintenance of a canal in proper condition or for the regulation of the irrigation therefrom or for the prevention of floods or for the provision of proper drainage, in connection with such irrigation, and includes also the land required for such work;
- (xviii) "water-course" means any channel which is supplied with water from a canal and which is maintained at the cost of the irrigators, and includes all subsidiary works connected with such channel except the sluice or outlet through which water is supplied to such channel;
- (xix) "water rate" means the charge made for canal water; and
- (xx) "land owner" shall have the same meaning as assigned to it in the Himachal Pradesh Land Revenue Act, 1954.

CHAPTER II

CONSTRUCTION OF CANALS

4. When the State Government has notified in this behalf any natural channel, lake or other collection of water, no person shall, without permission previously obtained in the manner prescribed in this section next following, construct a canal intended to be fed from any such channel, lake or other collection of water:

Prohibition against construction of canals without permission.

Provided that nothing in this section shall apply to the construction of a water-course from an existing canal or to the construction of wells.

5. (1) Any person, desiring to construct a canal intended to be fed from any source of supply which has been notified by the State Government under section 4, may apply, in writing, to the Collector for the permission prescribed in that section.

Application for permission and procedure thereon.

(2) Every application under sub-section (1) shall be in such form, and shall contain such particulars, as the State Government may prescribe in that behalf.

6. (1) When a source of supply has been notified by the State Government under section 4 and the Collector considers that the construction of a canal to be fed therefrom will be advantageous, he shall give notice by general proclamation to all persons interested of his intention to construct such canal or allow construction of such canal.

Power of Collector to construct canal from notified source of supply.

(2) If no objection to the construction of such canal shall have been preferred within a period to be specified in the notice under sub-section (1), or if any such objection has been preferred within the said period, but has been finally overruled, the Collector may proceed to construct such canal.

(3) The provisions of sections 49 and 62 shall apply to all proceedings of the Collector under sub-section (1) of this section and under the preceding section, and powers conferred upon the Collector by this and the preceding sections shall be exercised subject to such sanction as the Government may prescribe and in accordance with the rules made by the Government.

7. (1) If any person, without the permission necessary under sections 4 and 5 of this Act or contrary to any of the conditions of such permission, commences to construct or proceeds with the construction of any canal, the Collector may, at any time, by order in writing, prohibit such person, and, by general proclamation, all other persons from continuing the construction thereof:

Power to prohibit the unauthorised construction of and to close unauthorised canals.

Provided that, unless in the case of a construction which would materially extend the area irrigable by a canal, no such order or proclamation, as the case may be, shall be made or issued in respect of any canal which, at the time when it is proposed to make or issue such order or proclamation, has been used for irrigation without interruption, other than such as was due to natural causes beyond the control of the person aforesaid.

(2) If any person shall, at any time after the commencement of this Act, construct a canal without the permission necessary under sections 4 and 5 of this Act, the Collector may, with the previous sanction of the Government, close it and shut off the supply of water thereto and may further, by order in writing, prohibit such person, and by general proclamation, all other persons, from maintaining, repairing or renewing such canal or continuing to use the water thereof.

CHAPTER III

PROVISIONS APPLICABLE TO CANALS UNDER SCHEDULE I

This chapter applicable only to canals under Schedule I.

General powers of Collector.

8. Except as the Government may otherwise direct under section 68, the provisions of this chapter shall apply only to canals for the time being included under Schedule I.

9. (1) Notwithstanding the existence of any rights in or over a canal or water-course, the Collector may—

- (a) exercise all powers of control, management and direction for the efficient maintenance and working of such canal or for the due distribution of the water thereof; and
- (b) whenever and so long as any water-course, sluice or outlet is not maintained in proper customary repair, or any water-course, sluice or outlet through which water is supplied to any person, or in the case of a sluice or outlet, to any water-course or any person is subjected to wilful damage or wrongful enlargement, stop the supply of water to such water-course, sluice or outlet or to any person.

(2) No claim shall be enforceable against the Government for compensation in respect of loss caused by any order passed under sub-section (1) but any person suffering loss by reason of any order passed under sub-section (1) (a) may claim such remission of the ordinary charges payable for the use of the water as is authorised by the State Government:

Provided that if any right to water, entered in record-of-rights prepared or revised under section 28 (1) or deemed under section 28 (3) to have been made under this Act or admitted in any agreement between the Government and any person, is substantially diminished in consequence of action taken under sub-section (1) (a), the Collector shall award compensation under section 54 to such person in respect of the diminution of his right.

(3) No right to the use of the water of a canal shall be, or be deemed to have been, acquired under the Limitation Act, 1963, nor shall the State Government be bound to supply any person with water.

Power of the State Government to suspend or extinguish rights in or over any scheduled canal on payment of compensation.

10. (1) The Government may, at any time, suspend or extinguish any right to which any person is entitled in or over any canal if the exercise of such rights is prejudicial to the interests of other irrigators or to the good management, improvement or extension of the canal.

(2) In every such case, the State Government shall cause to be paid to the person whose right is suspended or extinguished compensation to be assessed by the Collector under section 54. In assessing compensation for the purposes of this section, the Collector shall also have regard to the character of the right, the period during which it has been enjoyed and the damage likely to be occasioned by its suspension or extinction.

Power to enter and survey etc.

11. The Collector or other person acting under the general or special orders of the Collector may enter upon any lands adjacent to any canal, or through which any canal is proposed to be made, and undertake surveys or levels thereon and dig and bore into the subsoil;

and make and set up suitable land-marks, level-marks and water gauges;

and to do all other acts necessary for the proper prosecution of any inquiry relating to any existing or projected canal under the charge of the said Collector;

Power to clear land.—and, where otherwise such inquiry cannot be completed, the Collector or such other person may cut down and clear away any part of any standing crop, fence or jungle;

Power to inspect and regulate water supply.—and may also enter upon any land, building or water course on account of which any water rate is chargeable, or has been remitted either in whole or part or included in the land revenue thereof, for the purpose of inspecting or regulating the use of the water supplied, or of measuring the lands irrigated thereby or chargeable with the water rate, and of doing all things necessary for the proper regulation and management of such canal;

Notice of intended entry into houses.—provided that if such Collector or person proposes to enter into any building or enclosed court or garden attached to a dwelling house not supplied with water flowing from any canal, he shall previously give the occupier of such building, court, or garden at least seven days' notice in writing of the intention to do so;

Compensation for damage caused by entry.—and in every case of entry under this section, the Collector shall, upon application made to him in this behalf, assess and pay compensation for any damage which may be occasioned by any proceeding under this section.

12. (1) In case of any accident happening or being apprehended to a canal, the Collector or any person acting under his general or special orders in this behalf may enter upon any lands adjacent to such canal, and may execute all work which may be necessary for the purpose of repairing or preventing such accident.

Power to enter for repairs and to prevent accidents.

(2) *Compensation for damage to land.*—In every case under sub-section (1), the Collector shall, upon application made to him in this behalf, assess and pay compensation under section 54 for any damage which may be occasioned by any proceeding under this section.

13. (1) The Collector, or any person acting under his general or special orders in this behalf, may, within such distance from the canal, as the Government may, by rule, determine, occupy land adjacent to any canal for the purpose of—

Power to occupy land adjacent to canal for depositing soil from canal and to excavate earth for repairs to and construction of the banks and compensation for damage.

(a) depositing upon it soil excavated from the canal, or

(b) excavating from it earth for repairs to the banks, and construction of the canal.

(2) The Collector shall, upon an application made to him in this behalf, assess and pay compensation for any damage which may be occasioned by any proceeding under this section.

(3) The owner of any land which has been occupied after the commencement of this Act for any purpose under sub-section (1) and has remained in such occupation for period exceeding three years may require that such land shall be permanently acquired in accordance with the provisions of section 43.

14. (1) Whenever an application is made to a Collector for supply of water from a canal, and it appears to him expedient that such supply should be given and that it should be conveyed through some existing water-course, he shall give notice to persons responsible for the maintenance of such water-course to show cause, on a day not less than fourteen days from the date of such notice, why the said supply should not be so conveyed and, after making inquiry on such day, the Collector shall determine whether and on what conditions, the said supply shall be conveyed through such water-course.

Supply of water through intervening water-course.

(2) The applicant shall not be entitled to use such water-course as aforesaid until he has paid the expense of any alteration of such water-course necessary in order to his being supplied through it, and also such share of the first cost of such water-course as the Collector may determine. Such applicant shall also be liable for his share of the cost of maintenance of such water-course so long as he uses it.

Application for construction of new water-course.

15. Any person desiring the construction of a new water-course may apply in writing to the Collector stating—

- (i) that he has endeavoured unsuccessfully to acquire, from the owners of the land through which he desires such water-course to pass, a right to occupy so much of the land as will be needed for such water-course;
- (ii) that he desires the Collector, on his behalf and at his cost, to do all things necessary for acquiring such right; and
- (iii) that he is able to defray all cost involved in acquiring such right and constructing such water-course.

Procedure of Collector thereupon.

16. If the Collector considers—

- (i) that the construction of such water-course is expedient, and
- (ii) that the statements in the application are true, he shall call upon the applicant to make such deposit as the Collector considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation which he considers likely to become due under section 19; and upon such deposit being made, he shall cause inquiry to be made into the most suitable alignment of the said water-course and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof, and shall forthwith publish a notice in every village through which the water-course is proposed to be taken, that so much of such land as belongs to such village has been so marked out.

Application for transfer of existing water-course.

17. (1) Any person, desiring that an existing water-course should be transferred from its present owner to himself, may apply in writing to the Collector stating—

- (i) that he has endeavoured unsuccessfully to procure such transfer from the owner of such water-course;
- (ii) that he desires the Collector, on his behalf and at his cost, to do all things necessary for procuring such transfer; and
- (iii) that he is able to defray the cost of such transfer.

(2) *Procedure thereupon.*—If the Collector considers—

- (a) that the said transfer is necessary for the better management of the irrigation from such water-course; and
- (b) that the statements in the application are true, he shall call upon the applicant to make such deposit as the Collector considers necessary to defray the cost of the preliminary proceedings and the amount of any compensation that may become due under the provisions of section 19 in respect of such transfer; and, upon such deposit being made, he shall publish a notice of the application in every village affected.

18. (1) When within thirty days from the publication of a notice under section 16 or section 17, as the case may be, any person interested in the land or water-course to which the notice refers, applies to the Collector as aforesaid, stating his objection to the construction or transfer for which application has been made, the Collector shall give notice to the other persons interested that, on a day to be named in such notice or any subsequent day to which the proceedings may be adjourned, he will proceed to inquire into the matter in dispute or into the validity of such objections, as the case may be.

Inquiry into and determination of objections to construction or transfer of water-courses.

(2) Upon the day so named or any such subsequent day as aforesaid, the Collector shall proceed to hear and determine the dispute or the objection, as the case may be.

19. (1) No applicant under sections 15 or 17, as the case may be, shall be placed in occupation of such land or water-course until he has paid to the person named by the Collector such amount as the Collector determines to be due as compensation for the land or water-course so occupied or transferred, and for any damage caused by the marking out or occupation of such land, together with all expenses incidental to such occupation or transfer.

Expenses to be paid by applicant for construction or transfer of water-course before receiving occupation.

(2) *Procedure in fixing compensation.*—Compensation to be made under this section shall be assessed as provided in section 54 but the Collector may, if the person to be compensated so desires, award such compensation in the form of rent charge payable in respect of the land or water-course occupied or transferred.

(3) *Recovery of compensation and expenses.*—If such compensation and expenses are not paid when demanded by the person entitled to receive the same, the amount may be recovered by the Collector, and shall, when recovered, be paid by him to the person entitled to receive the same.

20. (1) When any such applicant has duly complied with the conditions laid down in section 19, he shall be placed in occupation of the land or water-course as aforesaid, and the following rules and conditions shall thereafter be binding on him and his representatives in interest:—

Conditions binding on applicant placed in occupation.

(a) in all cases—

First—all works necessary for the passage across such water-course existing previous to its construction and of the drainage intercepted by it, and for affording proper communication across it for the convenience of the neighbouring lands, shall be constructed by the applicant, and be maintained by him or his representatives in interest to the satisfaction of the Collector;

Second—land occupied for a water-course under the provisions of section 16 shall be used only for the purposes of such water-course;

Third—the proposed water-course shall be completed to the satisfaction of the Collector within one year after the applicant is placed in occupation of the land;

(b) in cases in which land is occupied or a water-course is transferred on the terms of a rent charge—

Fourth—the applicant or his representatives in interest shall, so long as he occupied such land or water-course, pay rent for the same at such rate and on such days as are determined by the Collector when the applicant is placed in occupation:

Fifth—if the right to occupy the land ceases owing to a breach of any of these rules, the liability to pay the said rent shall continue until the applicant or his representative in interest has restored the land to its original condition or until he has paid, by way of compensation for any injury done to the said land, such amount and to such person as the Collector determines;

Sixth—the Collector may, on the application of the person entitled to receive such rent or compensation, determine the amount of rent due or assess the amount of such compensation and if any such rent or compensation be not paid by the applicant or his representative in interest, the Collector may recover the amount with interest thereon at the rate of six per cent per annum from the date on which it became due and shall pay the same when recovered, to the person to whom it is due.

(2) If any of the rules and conditions, prescribed by this section are not complied with, or if any water-course constructed or transferred under this Act is disused for three years continuously, the right of the applicant, or of his representative in interest, to occupy such land or water-course shall cease absolutely.

Construction of outlets from canals by Collector.

21. The Collector may construct or repair or alter a sluice or outlet to regulate the supply of water from a canal to any water-course.

Power to convert several water-courses running for a long distance side by side into one water-course.

22. (1) In cases where there are water-courses running side by side, or so situated as to interfere with the economical use or proper management of the water supply, the Collector, if applied to for that purpose, or on his own motion, may require the owners to make arrangements to his satisfaction to unite the water-courses or to substitute for them such system as may have been approved by him.

(2) If the owners fail within such time as the Collector may fix to comply with any order passed by him under sub-section (1), the Collector may himself execute the work.

(3) Whenever a water-course has been reconstructed or a new system substituted under sub-section (1) or sub-section (2), the Collector may fix the shares in which the water shall be enjoyed by the persons entitled to use the water-course.

Procedure applicable to occupation for extensions and alterations.

23. The procedure hereinbefore provided for the occupation of land for the construction of water-course shall be applicable to the occupation of land for any extension or alteration of a water-course and for the deposit of soil from water-course clearances.

Costs of executing works under section 22 by whom payable.

24. In every case under section 22, the cost of executing or completing the works shall be payable by such person or persons deriving benefit from the water-course as the Collector may, in each case, determine.

25. The State Government may, by notification, direct that a beneficiary shall be bound to furnish unskilled labour to the Government for any one or more of the following purposes in respect of any canal:—

- (a) construction,
- (b) maintenance in a state of efficiency,
- (c) annual silt clearance, and
- (d) executing any work necessary thereto.

Powers of the State Government to direct supply of labour by beneficiaries.

26. (1) The Government may, by notification, direct that the canal shall be constructed from a river, stream, creek or another canal for the irrigation of land in an estate or estates to be mentioned in the notification and that the cost of such construction shall be borne in whole or in part by the owners of the land to be benefited from the canal.

Cost of labour to be borne by the owners of land benefited.

(2) *Provisions of this Act to apply to the new canals.*—The provisions of this Act in regard to the construction, repairs, maintenance and management of canals included in Schedule I shall apply to the new canals constructed in pursuance of the Government notification issued under sub-section (1).

27. Upon the issue of notification under section 26, the Collector may, from time to time, by general or special order—

Power of Collector upon issue of notification under section 26.

- (a) determine the amount of labour to be provided or the amount of work to be performed by each irrigator;
- (b) regulate the attendance, distribution and control of the labourers provided or the manner of the performance of work;
- (c) assess and recover the cost of such labour from any person who fails to comply with an order passed under this section; and
- (d) fund all costs so recovered and expend them on the provisions of labour engaged for any of the canals to which the notification applies, or subject to the provisions, if any, of the record-of-rights specified in section 28 on any other purpose connected with the well being thereof:

Provided that the costs assessed as aforesaid shall not exceed such an amount as may be prevalent in the area for each day's labour of each of the labourers in respect of whom default has occurred.

28. (1) The Collector shall, whenever the State Government may, by special order or by the rules made under the authority of this Act, so direct, prepare or revise for any canal a record showing all or any of the following matters, namely:—

Power to prepare record for canal.

- (a) the custom of rule of irrigation;
- (b) the rights to water and the conditions on which such rights are enjoyed;
- (c) the rights as to the erection, repair, reconstruction and working of mills, and the conditions on which such rights are enjoyed; and
- (d) such other matters as the Government may, by rule, prescribe in this behalf.

(2) Entries in the record so prepared or revised shall be relevant as evidence in any dispute as to the matters recorded and shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor:

Provided that no such entry shall be so construed as to limit any of the powers conferred on the Government by this Act.

(3) When a record showing all or any of the matters enumerated in sub-section (1) has been framed at any settlement of the land revenue already sanctioned by the Government and has been attested by the revenue officer, such record shall be deemed to have been made under this section.

(4) Every person interested shall be bound to furnish to the Collector, or to any person acting under the directions of the Collector, all information necessary for the correct preparation of a record under this section.

(5) The provisions of chapter IV of the Himachal Pradesh Land Revenue Act, 1954, shall, so far as may be, apply to the preparation and revision of every such record.

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WATER RATES

Levy of
water rates.

29. (1) Subject to the terms of any agreement made by it with the owners or irrigators, the Government may, by notification, direct that a rate or rates shall be levied for the use of water of a canal in an authorised manner. Such rate or rates shall be determined keeping due regard to the maintenance and operation charges for the system and the cost of collection of the water-rates.

(2) The Government may, by notification, direct that, in addition to or in lieu of the rate or rates above mentioned, the land revenue for the time being assessed on the land receiving canal water shall be enhanced in consequence of the change of class of the land from unirrigated to irrigated:

Provided that the new rate of assessment shall not exceed that fixed at the time of settlement for irrigated lands of the same class in the same village or in its vicinity:

Provided further that the Government may allow such lands to continue to be assessed at the rate or rates at which they were assessed immediately before they became irrigated, for a number of harvests to be fixed by the Government.

(3) The Government may, by notification, also impose a special rate for water obtained or used without authority or in an unauthorised manner.

(4) The rate or rates imposed under sub-section (1) or sub-section (2) or sub-section (3) shall be leviable from such persons deriving benefit from the water as the Government may, by general or special rule, direct.

(5) Subject to the terms of any such agreement as aforesaid, the proceeds of any rate or rates levied under this section shall be disposed of in such manner as the Government may, by general or special rule, direct.

(6) In the event of failure of crop due to reasons beyond the control of the farmer, he shall be entitled to remission of water rates for that crop.

Liability
when per-
son using
unauthori-
sedly can
not be
identified.

30. If water supplied through a water-course be used in an unauthorised manner, and if the person by whose act or neglect such use has occurred cannot be identified, the person on whose land such water has flowed, if such land has derived benefit therefrom, or if such person cannot be identified, or if such land has not derived benefit therefrom, all the persons chargeable in respect of the water supplied through such water-course, shall be liable, or jointly liable, as the case may be, to the charges made for such use.

Penalty
when
water runs
to waste.

31. If water supplied through a water-course, be suffered to run to waste, and if, after inquiry by the Collector, the person through whose act or neglect such water was suffered to run to waste cannot be discovered, all the persons chargeable in respect of the water supplied through such water-course shall be jointly liable for the charges made in respect of the water so wasted.

Charges re-
coverable
in addition
to penal-
ties.

32. (1) All charges for the unauthorised use or for waste of water may be recovered in addition to any penalties incurred on account of such use or waste.

(2) All questions under section 30 and section 31 shall be decided by the Collector.

CHAPTER IV PROVISIONS APPLICABLE TO CANALS INCLUDED UNDER SCHEDULE II

33. (1) Except as the Government may otherwise direct under section 68, the provisions of this chapter shall apply only to canals for the time being included under Schedule II.

This chapter is applicable only to canals under Schedule II.

(2) *Appointment of Manager.*—Where there are numerous share-holders in the ownership of canal or where it is difficult to ascertain the persons who are share-holders, or the extent of the interest of the share-holders, or any of them, the Collector may, if there is no proper manager or representative, require, by a proclamation or notice in writing, the share-holders to nominate, within a given period, a fit person as manager of the canal and their representative, and, upon their failure to do so, may himself appoint any person to be the manager of such canal and the representative of the share-holders, and the person so appointed may thereupon do all acts and things which the share-holders, or any of them might lawfully do in regard to the management of such canal, and all acts and things so done by him shall be binding upon every person who possesses any share in the ownership of such canal.

34. The State Government may, by notification, declare all or any of the provisions of section 28 (as to the preparation and revision of records) to be applicable to any canal, and upon any such declaration being made, such provisions shall, as far as may be, apply accordingly.

Power of the State Government to apply the provisions of section 28 to any canal.

35. (1) It shall be lawful for the Government by notification to assume the control or management, or both, of any canal—

Power to assume control or management or both of a canal.

(a) if the owner of such canal consents thereto, and subject to the condition (if any) on which such consent may in any case be given;

(b) if, after inquiry, the Government is satisfied that the control or management exercised by or on behalf of the owner is such as causes grave injury to the property or health of persons owning lands in the vicinity; and

(c) in the event of any wilful and continuous breach of orders issued under section 38 of this Act.

(2) When the control or management, or both, of any canal is assumed under the provisions of sub-section (1), the Government may exercise all or any of the rights and powers in regard thereto which, but for such assumption, the owner might lawfully have exercised and may delegate such powers or any of them to any person, but the Government shall, in the absence of any decree or agreement to the contrary, be liable to account, from time to time, to such owner for the income and expenditure thereof and may, at any time, restore the canal to the owner.

36. When the control, or management, or both, of a canal shall be assumed by the Government under clause (b) or clause (c) of sub-section (1) of section 35, and such control or management shall have continued for a period exceeding six years, the owner thereof may, by notice in writing delivered to the Collector, require that the Government shall acquire such canal.

Right of owner upon such assumption to demand that the canal shall be acquired by the Government.

Power to acquire canal on demand of owner.

37. On receipt of notice under section 36, the State Government shall, by notification, declare that the said canal will be acquired after a day to be named in the said notification, not being earlier than three months from the date thereof, and after the issue of such notification, the Collector shall proceed as provided in sections 45 and 46.

Power to fix the limits of irrigation and water rates and to regulate the distribution of water.

38. The State Government may, after inquiry through the Collector, in respect of any canal, issue orders as to all or any of the following things, namely:—

- (a) fixing the limits within which land may be irrigated from such canal;
- (b) fixing, as it may deem equitable, the amount and character of the water rates leviable by the owner, and the conditions on which such rates are to be paid, suspended, remitted or refunded; and
- (c) regulating the supply and distribution of the water to and from such canal:

Provided that if any land which has been continuously irrigated from the canal for three years, previously, is deprived of irrigation, or the income of the canal owner from such canal is materially reduced by reasons of any order passed under this section, the owners of such land or the canal owner shall be paid by the Government or by such persons as the Government may determine such compensation as the Collector may consider reasonable:

Provided further that if the canal owner has, in the opinion of the Government, exercised his powers as such in an arbitrary or inequitable manner, he shall not be entitled to compensation under this section.

Collection in certain cases of water rates of canal by the State Government.

39. (1) The State Government may, at the request of the owner, undertake the collection of the water rates leviable in respect of canal for such period as may be agreed upon with him, and may, thereupon;—

- (a) regulate such collection and determine the persons by whom it shall be made; and
- (b) direct that by way of payment for service rendered in making such collections, deductions shall be made not exceeding three per cent of the amount collected.

(2) During the period for which the Government has undertaken the collection of the water-rates leviable in respect of a canal, no suit for the recovery of any such rates shall be instituted.

CHAPTER V

PROVISIONS APPLICABLE TO ALL CANALS

This chapter applicable to all canals.

40. Save as otherwise hereinafter expressly provided, the provisions of this chapter shall be applicable to all canals, whether included under Schedule I or under Schedule II.

Consent or decision of the owner how to be determined.

41. (1) Whenever, in respect of any canal, any question arises which has, under this Act or the rules made thereunder, to be determined by the request, consent or decision of the owner, and the ownership of such canal is vested in more persons than one who are unable to agree to such request, consent or decision, it shall be lawful to the Collector to act on behalf of the owners in any such matter, and the request, consent or decision of the Collector in any such case shall be binding upon every person who possesses any share in the ownership of such canal.

(2) In every such case as aforesaid, the Collector shall give due consideration to the wishes of the shareholder or shareholders who possess the larger interest and when the question is one whether the Government shall be required to take any action, the wishes of such shareholder or shareholders shall prevail and be accepted by the Collector.

42. (1) Save as provided in the preceding section, whenever a dispute arises between two or more persons in regard to their mutual rights and liabilities in respect of the ownership, construction, use or maintenance of a canal or water-course, and any such person applies in writing to the Collector stating the matter in dispute, the Collector shall give notice to the other person or persons interested that on a day to be named in such notice or any such day to which the proceedings may be adjourned, he will proceed to inquire into the matter in dispute.

Settlement
of disputes.

(2) Upon the day so named or any such subsequent day as aforesaid, the Collector shall proceed to hear and determine the dispute in the following manner, that is to say,—

(a) if the dispute relates to the ownership of a canal or the mutual rights of owners in the use of the water of such canal or the construction or maintenance of a canal or the payment of any share of the costs of such construction or maintenance or the distribution of the supply of water from a canal, the Collector shall proceed as a revenue court under the provisions of the Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953 and the provisions of that Act regarding appeals, revisions and reviews shall be applicable;

(b) if the dispute relates to a water-course, the Collector shall hear and determine the case as a revenue officer and shall make such order thereon as to him seems fit, and such order shall, unless set aside on appeal to the Financial Commissioner, be conclusive as to use or distribution of water for any crop sown or growing at the date of such order. The order of the Financial Commissioner on appeal shall in every case be final.

43. (1) Any person who has obtained the permission of the Government to construct, or who owns a canal may apply in writing to the Collector to take up any land required for the purposes of such canal.

Acquisition
of land for
canals.

(2) If the Collector is of the opinion that the application should be granted, he shall submit it, with his recommendation, for the orders of the Government.

(3) If, in the opinion of the Government, the application should, whether in whole or in part, be granted, it may declare that the land is required for a public purpose within the meaning of the Land Acquisition Act, 1894, and direct the necessary action to be taken thereunder.

44. Whenever it appears to the Government expedient in the public interest to acquire any canal, the State Government may, by notification, declare that the said canal will be required after a day to be named in the said notification not being earlier than six months from the date thereof.

Power to
acquire
canals by
consent or
otherwise.

45. As soon as practicable after the issue of such notification, the Collector shall cause public notice to be given at convenient places stating that the State Government intends to acquire the said canals as aforesaid and that claim for compensation in respect of the acquisition thereof may be made before him.

Notice as
to claims
for com-
pensation.

Inquiry into claims.

46. (1) The Collector shall proceed to inquire into any such claim and to determine the amount of compensation which should be given to the claimant. In assessing such compensation, the Collector shall proceed as provided in section 54, but for the purpose of this section he shall also have regard to the history of the canal, the expenditure incurred thereon and the profits of the owners.

(2) *Limitation of claims*—No claim for compensation shall be enforceable after the expiration of one year from the date of the notice under section 45 unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

Vesting of canal in the Government.

47. (1) The Government shall, by notification, declare the day on which a canal has been acquired by it.

(2) Subject to the award of compensation to the owner of the said canal, when the Government acquires a canal—

(a) the right, title and interest therein of the owner thereof shall forthwith cease and determine; and

(b) such canal, subject to any rights to take water for irrigation which any person may have, shall forthwith vest in and be the absolute property of the Government.

Power to regulate flow of water in rivers, creeks, natural channels or lines of natural drainage and to prohibit therein or order removal thereof of obstructions.

48. The Government may, by notification published in the official gazette, take power to regulate the flow of water in any river, creek, natural channel or line of natural drainage, whether by the construction or removal of works or otherwise, and whenever it appears to the Government after inquiry through the Collector that the supply of water to a canal or the cultivation of any land or the public health or public convenience is likely to be injuriously affected by the obstruction of any river, creek, natural channel or line of natural drainage it may, by notification published as aforesaid, prohibit within the limits to be defined by such notification the formation of such obstruction or may, within such limits, order the removal of, or the modification of, such obstruction.

Power to remove obstruction after publication of notification and payment of compensation.

49. (1) The Collector may, after such publication, issue an order to the person causing or having control over any such obstruction to remove or modify the same within a time to be fixed in the order.

(2) The Collector may himself remove or modify the obstruction—

(a) if the person to whom the order under sub-section (1) was issued fails to comply with that order within the time so fixed; and

(b) in any case where the obstruction is not caused or controlled by any person.

(3) The Collector shall determine from whom the cost of removing or modifying the obstruction shall be recovered, and the amount of compensation due to any person injuriously affected by the removal or modification of the obstruction and the persons by whom such compensation shall be payable:

Provided that no compensation shall be awarded for an advantage obtained by an arbitrary or inequitable course of action.

Power of the Collector to regulate flow of water and prohibit or remove obstructions.]

50. When the Government has, by notification as provided in section 48, taken power to regulate the flow of water in any river, creek or natural channel or line of natural drainage, it may authorise the Collector to exercise such powers on its behalf in accordance with such rules as it may prescribe. A Collector so authorised may in the execution of such rules exercise all the powers conferred upon him by section 49 and his authority

shall include the power to take such action as the Government is empowered by section 48 to take after inquiry through the Collector. Such authority may, on every occasion, be exercised without the publication of any further notification in the gazette.

51. (1) The Collector may, at any time, order the beneficiary of any canal under Schedule II to—

- (a) repair and maintain, in a proper state, all or any embankments, protective works, reservoirs, channels, water-courses, sluices, outlets and other works connected with the canal;
- (b) construct, repair and maintain, in a proper state, a suitable bridge, culvert, or similar work at any place across, under or over the canal, for the purpose of providing communication with any public road or thoroughfare which was in use before the canal was made;
- (c) construct, repair and maintain, in a proper state, suitable works for the passage of the water of the canal across, under, or over any public road or thoroughfare or any canal or drainage or channel, which was in use before the canal was made; and
- (d) construct, repair and maintain, in a proper state suitable regulator at or near the head of the canal, where for want of such regulator, an excessive supply of water may enter the canal or cause damage to it, or any crops, lands, road, or property in the neighbourhood.

(2) The Collector may at any time order a beneficiary to furnish unskilled labour free of cost for any one or more of the purposes specified in section 25 of this Act.

(3) Every order under sub-sections (1) and (2) shall be in writing and shall specify a reasonable time within which the works or repairs mentioned therein shall be completely executed.

(4) If any order made under this section is not obeyed, to the satisfaction of the Collector, within the time therein specified, the Collector may himself execute or complete the execution of, or cause to be executed or completed, all works or repairs specified in the order.

52. In the case of canals included under Schedule I, the Collector may—

- (a) call upon the beneficiary to discharge any of the liabilities specified in section 51, sub-section (1), which the Government may have declared to attach to the beneficiary from such canal or group of canals; or
- (b) himself arrange for the performance of such acts and recover cost as provided in section 56.

53. (1) If any new work is immediately required to prevent serious detriment to the utility of a canal, the Collector may, notwithstanding anything in the Land Acquisition Act, 1894, take immediate possession of any land required for the construction of the work.

(2) When the Collector has taken possession of any land under sub-section (1), he shall, upon application made to him in this behalf, assess and pay compensation under section 54.

(3) In the event of sudden and serious damage or urgent risk to canal or to property situated in the immediate neighbourhood thereof, or to irrigation carried therefrom or to the public traffic, the Collector may, after giving previous notice, execute or cause to be executed, such works as he may think necessary in order to remedy or prevent such damage or risk, and may require any irrigator to furnish such labour as the said Collector may deem reasonable and necessary for the immediate execution of such work.

Power as to the construction and the maintenance of works in respect of canals under Schedule II.

Powers as to construction and maintenance of works in respect of canals under Schedule I.

Power to take possession and to construct works in cases of emergency.

(4) Labour furnished under this section shall be paid at the local market rate.

(5) An order passed under sub-sections (3) and (4) shall be final.

Assessment of compensation.

54. In assessing the amount of compensation to be paid under any section of this Act, other than sections 11, 13, 20, 38 and 49, the Collector shall proceed under the provisions of the Land Acquisition Act, 1894 and the provisions of that Act regarding inquiries and awards by the Collector, reference to the civil courts and procedure thereon, apportionment of compensation, payment and appeals shall, as far as may be, be applicable to all proceedings under this section.

Compensation for a right of user or in the form of supply of water.

55. With the consent of the parties, the Collector may, when assessing the amount of compensation to be paid, direct, in the case of any acquisition of land, that the property in such land shall remain with the owner subject to a right of user so long as the land is required for the purpose of the canal or water-course, compensation being awarded for the right of user only, or in the case of an acquisition of canal, or of land for the purposes of a canal, that the compensation shall take the form in whole or in part of a right to a supply of water from the canal which has been acquired or for the purposes of which land has been acquired.

Appointment and recovery of the cost of land acquired or works executed.

56. (1) When any land is acquired under the provisions of section 43 or when any work is executed by or under the order of the Collector under the provisions of section 49, section 51, section 52 or section 53, the cost of acquiring such land or of executing such work, as the case may be, shall be recoverable—

- (a) if the canal is included under Schedule II from the owner thereof; or
- (b) if the canal is included under Schedule I from the irrigators or such of them as are, in the opinion of the Collector, benefited or likely to be benefited by the acquisition of equitably liable for the whole or any part of the cost of executing the work or from the proceeds of any water rate levied under section 29; and
- (c) if such appropriation is not contrary to the provisions of the record-of-rights specified in section 28 of this Act, from the fund referred to in section 27 of this Act.

(2) When the cost of acquiring any land or of executing any work is, under the provisions of sub-section (1), recoverable from the owner of any canal or from the irrigators therefrom, or any of them, it shall be lawful for the Collector to apportion such cost as he may deem equitable, among all or any of the persons liable for the whole or any portion thereof and such apportionment shall be final.

(3) When the cost of acquiring such land has been paid, such land, if acquired in full proprietary rights, shall become the property of the canal-owner.

Power to regulate mills.

57. The Government may, by general or special order, prohibit or regulate the construction of new, and regulate the use of existing mills upon canals, and appropriation of the water of canals, for working mills.

Application of sections 14 to 17 of the Himachal Pradesh Land Revenue Act, 1954.

58. Except in so far as a contrary intention is expressed, sections 14 to 17 (both inclusive) of the Himachal Pradesh Land Revenue Act, 1954 shall apply to all proceedings under this Act.

59. Save as provided in section 54, no civil court shall have jurisdiction in any matter which a revenue officer or revenue court is empowered by this Act to dispose of, or take cognizance of the matter in which the Government, any revenue officer or revenue court exercises any powers vested in it or him by or under this Act.

Exclusion of jurisdiction of civil court except under the Land Acquisition Act.

60. (1) The Government may appoint any person or any class of officials to perform any functions or to exercise any powers under this Act or the rules made thereunder conferred on or vested in the Collector, Commissioner, if any, Financial Commissioner or such Government.

Power to appoint officers to perform functions and to exercise powers under this Act.

(2) Such appointment may be made in respect of any canal or of all or any of the canals situate within any specified local area.

(3) In all matters connected with this Act, the Government, shall have and exercise over the Financial Commissioner, the Commissioner, if any, and the Collector and the Financial Commissioner shall have and exercise over the Commissioner, if any, and the Collector and the Commissioner, if any, shall have and exercise over the Collector, the same authority and control as it or they respectively have and exercise over them in the general and revenue administration.

61. For the purposes of every enquiry made and proceedings taken under this Act, the Collector, or any other revenue officer, authorised by him in this behalf, or any other officer authorised by the Government shall have power to summon and enforce the attendance of, and examine, parties and witnesses and compel the production of documents, and, for all or any of these purposes, may exercise all or any of the powers conferred on a civil court by the Code of Civil Procedure, 1908, and every such inquiry shall for the purposes of the Indian Penal Code, 1860 be deemed to be judicial proceedings.

Powers of Collector in certain proceedings under this Act.

62. In all cases under sections 6, 10, 20, 22, 24, 30, 31, 33, 35, 37, 38, 39, 41, 42, 46, 48, 51, 52 and 56 of this Act, the owners and other parties interested in the canal shall be given an opportunity of appearing before the Collector and of showing cause to the contrary.

Permission to owners and parties interested in any canal to object in certain cases.

63. Every summons, notice, proclamation and other process issued under this Act, shall, as far as may be, be served or made in the manner provided in that behalf in sections 21, 22 and 23 of the Himachal Pradesh Land Revenue Act, 1954.

Mode of serving notice and making proclamation.

64. Save as otherwise expressly provided in this Act, no person shall be entitled to recover any compensation for anything at any time done or in good faith intended to be done in exercise of any power conferred by this Act, or by the rules made thereunder.

Bar of compensation where not expressly allowed.

65. No suit, prosecution or other legal proceedings shall lie against any person for anything done, or in good faith intended to be done, in exercise of any power conferred by this Act, or by the rules made thereunder.

Protection of persons acting under this Act.

66. (1) In any suit or proceedings in which any entry made in any record prepared under section 28 or section 34 is directly or indirectly called in question, the court shall, before the final settlement of issues, give notice of the suit or proceedings to the Collector, and, if moved to do so by the Collector, shall make the Government a party to the same.

State Government to be party to certain suits and proceedings.

5 of 1908
45 of 1860

6 of 1954

(2) *Bar of other suits against the Government.*—Save as provided in subsection (1), no suit shall lie against the Government in respect of anything done by the Collector or by any person acting under the orders of the State Government in exercise of any power by this Act conferred on such Collector or the Government.

Power to recover water-dues and other charges by revenue process.

67. All water-dues, water-rates and other payments at any time due by or to be collected from any person under any provision of this Act or under an agreement entered into by the owners of the canal on the person irrigating from it and all arrears of such water-dues, water-rates or other payments shall be recoverable as if the same were arrears of land revenue.

Powers as regards canals, rivers or creeks situated partly within or partly without the limits of Himachal Pradesh.

68. Any or all of the powers exercisable by the Government under this Act in respect of any canal, river, or creek may be exercised by such Government in the case of any canal, river, or creek which is, or may, at any time, be situated partly within and partly without the limits of Himachal Pradesh, and in respect of so much of any such canal, river, or creek, as is within these limits and in the case of any such canal, river or creek, the Government may, by notification and notwithstanding the provisions of section 2, declare what sections of this Act shall be applicable thereto.

Powers exercisable in cases of urgency with regard to canals situated beyond Himachal Pradesh.

69. In respect of any canal situated beyond the limits of Himachal Pradesh, the Government may, by notification published in the official gazette, declare that the powers exercisable by a Collector under section 53, may, under the circumstances therein specified be exercised by the Collector or other authorised officers within the limits of Himachal Pradesh for all or any of the purposes of such canal.

Offences under this Act.

70. Whoever, without proper authority and voluntarily, does any of the acts following, that is to say:—

- (1) damages, alters, enlarges, or obstructs any canal;
- (2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under any canal;
- (3) interferes with or alters the flow of water in any river, creek or stream so as to endanger, damage or render less useful any canal;
- (4) being responsible for the maintenance of any water-course or using a water-course, neglects to take proper precautions for the prevention of waste of the water thereof or interferes with the authorised distribution of the water therefrom or uses such water in an unauthorised manner;
- (5) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used;
- (6) being liable to furnish labour under this Act, fails, without reasonable cause, to supply or to assist in supplying the labour required of him;
- (7) being liable to supply labour under this Act, neglects, without reasonable cause, so to supply and to continue to supply labour;
- (8) destroys or removes any level-mark of water-gauge fixed by the authority of a public servant;
- (9) passes or causes animals or vehicles to pass on or across any of the works, banks or channels of a canal contrary to rules made under this Act after he has been desired to desist therefrom;
- (10) disobeys any order or proclamation issued under this Act, or commits any breach of any rule made thereunder;

shall be liable, on conviction before a magistrate of such class as the State Government directs in this behalf, to fine not exceeding five hundred rupees or to imprisonment not exceeding one month or to both.

71. Any person in-charge of or employed upon a canal managed by a public servant or by a local body, including a gram panchayat, may remove from the lands or buildings belonging thereto, may take into custody without a warrant and take forthwith before a magistrate, or to the nearest police station, to be dealt with according to law any person who, within his view, commits any of the following offences:—

Power to arrest without a warrant.

- (1) wilfully damages or obstructs any canal;
- (2) without proper authority interferes with the supply of or flow of water in or from any canal or in any river or stream, so as to endanger, damage or render less useful any canal.

72. In sections 70 and 71, the word "canal" shall (unless there be something repugnant in the subject or context) be deemed to include also all lands occupied for the purposes of canal and all buildings, machinery, fences, gates, and other erections, trees, crops, plantations or other produce upon such lands.

Definition of canals for purposes of sections 70 and 71.

73. (1) The Government may, by notification, make rules, consistent with this Act, regulating any matter in regard to which any power is, by this Act, conferred upon the Government, or upon any officer of the Government and generally to carry out the purposes of this Act.

Power to make rules.

(2) Without prejudice to the generality of the power conferred by sub-section (1), rules made under this Act, may provide for the levy of a rate imposed upon land in consideration of its protection from sand or flood.

(3) All rules made under sub-section (1) shall be so made after previous publication in the official gazette.

(4) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

74. From the date of commencement of this Act, the Himachal Pradesh Minor Canals Act, 1955, as in force in the areas comprised in Himachal Pradesh immediately before 1st November, 1966, and the Punjab Minor Canals Act, 1905, the Punjab Tubewell Act, 1954 and the Northern India Canals and Drainage Act, 1873, as in force in the areas transferred to Himachal Pradesh under section 5 of the Punjab Reorganisation Act, 1966, shall stand repealed:

Repeal and savings.

Provided that anything done or any action taken or any proceedings commenced or continued under the said Acts shall be deemed to have been done, taken, commenced or continued under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

At present, in old areas of Himachal Pradesh, the Himachal Pradesh Minor Canals Act, 1955, is in force, whereas in the merged areas, the Punjab Minor Canals Act, 1905, the Punjab Tubewell Act, 1954 and the Northern India Canals and Drainage Act, 1873 are prevalent. In order to have uniformity in respect of control and provisions in management of minor canals, to provide for the levy of water charge thereon and to recover beneficiaries' share, it is proposed to have a uniform law in the whole territory of Himachal Pradesh. The Himachal Pradesh Minor Canals Bill, 1968, seeks to achieve this object.

SIMLA:
The 15th July, 1968.

KARAM SINGH,
Finance Minister.

FINANCIAL MEMORANDUM

Since this Bill is intended mainly to unify the existing laws in force in the two different areas of Himachal Pradesh, no financial implications are involved.

MEMORANDUM ON DELEGATED LEGISLATION

Clause 73 empowers the Himachal Pradesh Government to make rules which are of normal character.

SURENDRANATH,
Under Secretary.